

REMARKS

In response to the Office Action dated February 9, 2005, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the Claims 1-66 are in condition for allowance.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-2, 5-9, 12, 15-24, 27-31, 34, 37-46, 49-53, 56 and 59-66 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Ross et al. U.S. Patent No. 6,477,571 ("Ross"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the * * * claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants submit that Claim 1 is patentable at least for the reason that each and every element of Claim 1 is not found, either expressly or inherently described, in Ross.

With regard to Claim 1, the Examiner has suggested that Ross teaches "a method for performing isolation of dropped packets in a computer network, said method comprising: receiving a request for analysis, said request including a source node and a destination node" at Col. 5, lines 1-13 and 35-45. The Examiner has stated that the "reference teaches receiving a request for analysis an informational packet, which includes source node and destination node."

Applicants respectfully disagree with the Examiner and submit that Ross is directed to identifying occurrences of transactions in computer networks. See, e.g., Ross Abstract. Further, Ross is directed to recognizing and predicting transactions and in particular to recognizing and predicting transactions using regular expressions from formal language theory. See, e.g., Ross Col. 1, Lines 7-11. This is not the same a "performing isolation of dropped packets in a computer network" as recited in Claim 1. In addition, the portions of Ross cited by the Examiner teach a probe in a network for recording the start time of a service request and the stop time of a service request by recording data from informational packets that make up the service request and that are received by the probe. Further, Col. 5, lines 35-45 teach that the informational packet (defined in Ross as part of a service request packet that is transmitted between two computational components to perform a specified activity or service) includes a source and a

destination address along with other information. This is not the same as "said request including a source node and a destination node" as recited by Claim 1. The portions of Ross cited by the Examiner contain no teaching of "receiving a request for analysis, said request including a source node and a destination node" as recited in Claim 1. For at least this reason, Claim 1 is patentable over Ross.

Further, with regard to Claim 1, the Examiner has suggested that Ross teaches "mapping an expected path in response to said request for analysis, said expected path including a probe" at Col. 5, lines 15-35. The Examiner has stated that the "reference teaches the path which would be taken by informational packets to the destination node from the source node."

Applicants respectfully disagree with the Examiner and submit that the section of Ross cited by the Examiner teaches a multi-tiered architecture with multiple network segments and multiple probes, or recording devices. The section further teaches that the number and locations of the recording devices depend upon the application and are typically on a communication line that is between the interfaces of a client or server computer using the communication line of the segment being monitored. There is no teaching of "mapping an expected path in response to said request for analysis, said expected path including a probe" as recited by Claim 1. For at least this reason, Claim 1 is patentable over Ross.

Further, with regard to Claim 1, the Examiner has suggested that Ross teaches "creating a capture filter profile (Fig. 1 element 36) for said probe (Col. 5, lines 1-13). The Examiner has stated that the "reference teaches the recording device (probe) captures informational packets from the communication line to pass it to the monitoring computer for analysis."

Applicants respectfully disagree with the Examiner and submit that Fig. 1 element 36 is a "monitoring computer" for executing modules to match up service requests to transaction occurrences and then to transactions. The monitoring computer is a static, physical device and therefore not capable of being "created" like the capture filter profile recited in Claim 1. The monitoring computer in Ross is not the same as a "creating a capture filter profile for said probe" as recited in Claim 1. For at least this reason, Claim 1 is patentable over Ross.

Still further, with regard to Claim 1, the Examiner has suggested that Ross teaches "transmitting a request to said probe to perform data collection in response to said capture filter profile" at Col. 5, lines 50-54 and 1-13. The Examiner has stated that the "reference teaches the

recording device (probe) captures informational packets from the communication line to pass it to the monitoring computer for analysis.”

Applicants respectfully disagree with the Examiner and submit that the sections of Ross cited by the Examiner teach a probe in a network for recording the start time of a service request and the stop time of a service request by recording data from informational packets that make up the service request and that are received by the probe. Col. 5, lines 50-54 teach determining which informational packets detected on a communications line by a recording device (probe) correspond to a service request. This is not the same as “transmitting a request to said probe to perform data collection in response to said capture filter profile” as recited in Claim 1. For at least this reason, Claim 1 is patentable over Ross.

In addition, with regard to Claim 1, the Examiner has suggested that Ross teaches “receiving a data log from said probe, said data log created by said data collection” at Col. 5, lines 50-67 and Col. 6, lines 1-10. The Examiner has stated that the “reference teaches monitoring computer receives informational packets corresponding to the each service request (receiving data log) from the recording device (probe).

Applicants respectfully disagree with the Examiner. Col. 5, lines 50-54 of Ross teach using a service request analyzer for determining which informational packets detected on a communications line by a recording device (probe) correspond to a service request. Col. 5, line 55 to Col. 6 line 10 teaches that the service request analyzer generates a service request string that identifies the sequence of informational packets contained in the service request. The service request string is matched to a request identifier for allowing more compact storage. This is not the same as “receiving a data log from said probe, said data log created by said data collection” as recited by Claim 1. For at least this reason, Claim 1 is patentable over Ross.

In addition, with regard to Claim 1, the Examiner has suggested that Ross teaches “generating exception data, wherein said exception data is generated in response to comparing said expected path and said data log” at Col. 5, lines 50-67 and Col. 6, lines 1-10. Applicants respectfully disagree with the Examiner. Col. 5, lines 50-54 of Ross teach using a service request analyzer for determining which informational packets detected on a communications line by a recording device (probe) correspond to a service request. Col. 5, line 55 to Col. 6 line 10 teaches that the service request analyzer generates a service request string that identifies the sequence of informational packets contained in the service request. The service request string is

matched to a request identifier for allowing more compact storage. This is not the same as "generating exception data, wherein said exception data is generated in response to comparing said expected path and said data log" as recited in Claim 1. For at least this reason, Claim 1 is patentable over Ross.

Applicants submit that Claim 1 is patentable over Ross for at least the reasons described above. Because they depend from Claim 1, Claims 2-22 are patentable for at least the reasons advanced above with respect to Claim 1. Further, because they contain similar elements, Claims 23 and 45 are patentable over Ross for at least the reasons advanced above with respect to Claim 1. Because they depend from Claim 23, Claims 24-44 are also patentable over Ross. Because they depend from Claim 45, Claims 46-66 are also patentable over Ross.

Claim Rejection Under 35 U.S.C. § 103(a)

Claims 3, 4, 25, 26, 47 and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ross in view of Chao et al. U.S. Patent No. 6,549,513 ("Chao"). Chao is directed to managing the restoration of paths within a communication network. The Examiner has stated that "Ross teaches the method of claim 1 but is silent on teaching the request further includes restrictions on said expected path. Chao teaches request further includes restrictions on said expected path." Applicants respectfully disagree with the Examiner. For the reasons described previously, Ross does not teach all of the elements of Claim 1. Chao does not cure the deficiencies in Ross as described previously with respect to Claim 1. Therefore, neither Ross nor Chao, alone or in combination teach all of the elements of Claim 3. For at least these reasons, Applicants submit that Claim 3 is patentable over Ross in view of Chao. Claim 4 is dependent on Claim 3 and is patentable over Ross in view of Chao for the same reasons advanced with respect to Claim 3. Further, because they contain similar elements, Claims 25 and 47 are patentable over Ross in view of Chao for at least the reasons advanced above with respect to Claim 3. Because it depends from Claim 25, Claim 26 is also patentable over Ross in view of Chao. Because it depends from Claim 47, Claim 48 is also patentable over Ross in view of Chao.

Claims 10, 11, 32, 33, 54 and 55 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ross in view of Sera et al. U.S. Patent Publication No. 2001/0005371 ("Sera").

With respect to Claim 10, the Examiner has stated that "Ross teaches the method of claim 1 but is silent on teaching further comprising transmitting a retransmission request to specified node in response to said exception data. Sera teaches transmitting a retransmission request to a specified node in response to said exception data." Applicants respectfully disagree with the Examiner. For the reasons described previously, Ross does not teach all of the elements of Claim 1. Sera does not cure the deficiencies in Ross as described previously with respect to Claim 1. Therefore, neither Ross nor Sera, alone or in combination teach all of the elements of Claim 10. For at least these reasons, Applicants submit that Claim 10 is patentable over Ross in view of Sera. Further, because they contain similar elements, Claims 32 and 54 are patentable over Ross in view of Sera for at least the reasons advanced above with respect to Claim 10.

With respect to Claim 11, the Examiner has stated that "Ross teaches the method of claim 1 but is silent on teaching further comprising transmitting a notification to a specified node in response to said exception data. Sera teaches transmitting a notification to a specified node in response to said exception data." Applicants respectfully disagree with the Examiner. For the reasons described previously, Ross does not teach all of the elements of Claim 1. Sera does not cure the deficiencies in Ross as described previously with respect to Claim 1. Therefore, neither Ross nor Sera, alone or in combination teach all of the elements of Claim 11. For at least these reasons, Applicants submit that Claim 11 is patentable over Ross in view of Sera. Further, because they contain similar elements, Claims 33 and 55 are patentable over Ross in view of Sera for at least the reasons advanced above with respect to Claim 11.

Claims 13, 14, 35, 36, 57 and 58 have been rejected under 35 U.S.C. § 103(as) as being unpatentable over Ross in view of Frezza et al. U.S. Patent No.6,477,571 ("Frezza"). With regard to Claim 13, the Examiner has stated that "Ross teaches the method of claim 1 but fails to teach the said data log further comprises a frame sequence number. Frezza teaches data log further comprises a frame sequence number." Applicants respectfully disagree with the Examiner. For the reasons described previously, Ross does not teach all of the elements of Claim 1. Frezza does not cure the deficiencies in Ross as described previously with respect to Claim 1. Therefore, neither Ross nor Frezza, alone or in combination teach all of the elements of Claim 13. For at least these reasons, Applicants submit that Claim 13 is patentable over Ross in view of Frezza. Claim 14 is dependent on Claim 13 and is patentable over Ross in view of Frezza for the same reasons advanced with respect to Claim 13. Further, because they contain

similar elements, Claims 35 and 57 are patentable over Ross in view of Frezza for at least the reasons advanced above with respect to Claim 13. Because it depends from Claim 35, Claim 36 is also patentable over Ross in view of Frezza. Because it depends from Claim 57, Claim 58 is also patentable over Ross in view of Frezza.

Conclusion

It is believed that the foregoing remarks fully comply with the Office Action and that Claims 1-66 are in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested.

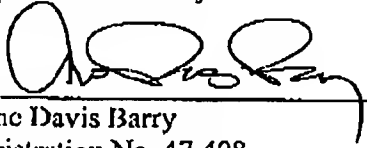
In the event the Examiner has any questions regarding this Amendment, Applicants' attorneys respectfully request the courtesy of a telephone conference.

In the event that there are any additional fees with respect to this Amendment, Applicants' attorneys respectfully request that such fees be withdrawn from Deposit Account No. 09-0463 maintained by Applicants' attorneys.

Respectfully submitted,

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